

Notice of Allowability

Application No.

10/015,392

Examiner

Robert Landsman

Applicant(s)

GENENTECH, INC.

Art Unit

1647

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to the Examiner's Amendment accompanying this Allowance.
2. ☒ The allowed claim(s) is/are 33-35,38-40 and 44-52 (renumbered as claims 1-15).
3. ☒ The drawings filed on 12 December 2001 are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
 6. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO-1449 or PTO/SB/08), Paper No./Mail Date _____
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☐ Interview Summary (PTO-413), Paper No./Mail Date _____
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____

EXAMINER'S AMENDMENT

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Anna Barry on November 08, 2004.

In the claims:

Cancel claims 28-32 and 53-59

In claim 44, delete "28, "

In claim 46, replace the phrase "A host" with "An isolated host"

In claim 47, before the word "host" add the word "isolated"

In claim 48, part (d), after "203227; wherein" delete the phrase "the nucleic acid encoding said polypeptide is amplified in lung or colon tumors or wherein"

In claim 49, part (d), after "203227; wherein" delete the phrase "the nucleic acid encoding said polypeptide is amplified in lung or colon tumors or wherein"

In claim 50, part (d), after "203227; wherein" delete the phrase "the nucleic acid encoding said polypeptide is amplified in lung or colon tumors or wherein"


In claim 51, part (d), after "203227; wherein" delete the phrase "the nucleic acid encoding said polypeptide is amplified in lung or colon tumors or wherein"

In claim 52, part (d), after "203227; wherein" delete the phrase "the nucleic acid encoding said polypeptide is amplified in lung or colon tumors or wherein"

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REASONS FOR ALLOWANCE

The rejection under 35 USC 112, first paragraph, regarding the issue of enablement for claims 44-52 has been withdrawn in view of the fact that it would not be undue experimentation for one in the art to make and use the present invention. The claims recite both structural limitations (percent identity) and a function (chondrocyte proliferation).


ROBERT LANDSMAN
PATENT EXAMINER